SENATE STANDING COMMITTEE ON EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

QUESTIONS ON NOTICE SUPPLEMENTARY ESTIMATES 2009-10

Agency Fair Work Australia

DEEWR Question No. EW613_10

Senator Humphries asked on 22 October 2009 EEWR Hansard page 44.

Question

Senator HUMPHRIES—In the Hunter Valley case, I am told that the applicant was represented by a union. You obviously do not know if it is the case, but the report in the Workplace Express tells me that the person was represented. So the only way that an applicant or respondent appearing before Fair Work Australia can have an automatic right to representation is if they use a union or an employer organisation to represent them. Am I correct in understanding that is the approach?

Answer

Fair Work Australia has provided the following response:

Section 596 of the Fair Work Act 2009 provides that representation by a lawyer or paid agent can only be with the permission of FWA (other than in the case of a written submission when FWA deals with modern awards or minimum wages).

Subsection 596(4) provides that a person is taken <u>not</u> to be represented by a lawyer or paid agent if the lawyer or paid agent:

- a) is an employee or officer of the person; or
- (b) is an employee or officer of:
 - (i) an organisation; or
 - (ii) an association of employers that is not registered under the Fair Work (Registered Organisations) Act 2009; or
 - (iii) a peak council; or
 - (iv) a bargaining representative;

that is representing the person; or

(c) is a bargaining representative.